

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
APPENDIX**

DOCKET NO. 75-1175

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Appellee,

-against-

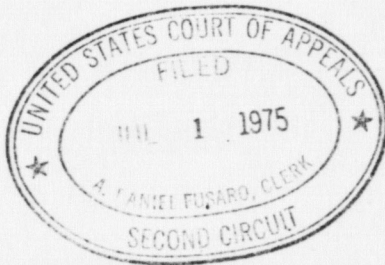
RALPH PRINCIPE, PAUL LABRIOLA
and DAWN SLOMKA,

Appellants.

On Appeal from the United States District
Court for the Eastern District of New York

APPENDIX IN BEHALF OF APPELLANTS
LABRIOLA AND SLOMKA

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1 Newman-direct

2 the wiretap of the phone of the 1-2-3-4 Club?

3 A Yes, it is.

4 MR. MEYERSON: I ask that the order and
5 affidavit -- I offer it in evidence, your Honor.

6 MR. SONENSHINE: No objection, solely for the
7 purpose of identifying for the record the document
8 attacked and in question here.

9 THE COURT: Mark it.

10 MR. COOPER: That's the July 3rd order, is it
11 not, Mr. Meyerson?

12 MR. MEYERSON: Yes, it is.

13 THE CLERK: Government exhibit 4 previously
14 marked for identification, now marked in evidence.

15 (So marked.)

16 THE COURT: Let me see that.

17 (Document handed to Court.)

18 THE COURT: Do you need it for the witness?

19 MR. MEYERSON: Yes.

20 (Document handed to witness.)

21 Q Turning to your affidavit, can you tell us,
22 to clear up any ambiguities for us, can you tell us where
23 you made reference of more than one simply, Joe Martino,
24 or Ralph?

25 MR. SONENSHINE: I didn't hear that. I'm

1
2 to be recorded.]C

3 Q Do I understand then, that your instructions
4 to your men were, if a person responded to the name of Paul
5 and if, from what was heard by your officers hearing them,
6 they knew that they were listening to a person other than
7 Joe Martino, they were, nonetheless, to record the
8 conversation if it seemed to have anything to do with any
9 kind of stolen bonds or securities or documents?

10 A Securities, yes.

11 Q Now, so far as you know, in any direct sense,
12 your -- your informant, Mr. Reinhardt, told you only about
13 two types of bonds, and that Martino had discussed with him;
14 isn't that so?

15 A At that time, yes.

16 Q Talking about now, the time prior to your
17 applying for eavesdropping order.

18 A Yes.

19 Q Type 1; were these U.S. Postal Savings Bonds?

20 A Bearer bonds.

21 Q And type 2; was a reference to industry bonds,
22 right?

23 A That is correct.

24 Q Now, for example; prior to applying for this
25 order, had you heard any discussion at all described to you

1
2 among Martino or Reinhardt or anything on the conversations
3 recorded between Reinhardt and Martino that dealt with, let
4 us say, U.S. savings bonds?

5 A Not specifically, no.

6 Q How about municipal bonds, did that subject
7 ever come up within the contemplation of your investigation
8 like any reference either by Martino or Reinhardt, to each
9 other?

10 A Up until the time the order was signed, the
11 first order, not specifically.

12 Q So that, whatever may have been your objective,
13 how broad an order you could get, all you could present to
14 Judge Ventrano was the evidence dealing with conversations
15 between Reinhardt and Martino dealing with U.S. Postal bearer
16 bonds and industry bonds; is that right?

17 By direct reference --

18 A By direct reference, because there is an
19 indication that there could be other securities forthcoming
20 without designating them as such.

21 Q Then, we wouldn't know what they were, maybe
22 for industry bonds, postal bonds, might be anything?

23 A That's correct.

24 Q But apart from speculation as to what the future
25 might bring in terms of concrete evidence, you were limited

1
2 to either industry bonds or U.S. Postal Bearer bonds?

3 A That is Martino related to Reinhardt the
4 two items. Specifically by name; that is, industry bonds
5 encompasses --

6 Q Variety of items. U.S. Postal Bearer Bonds.
7 You were limited in terms of any concrete
8 evidence to those two bonds?

9 A Those generalizations, yes.

10 Q Now, did you give your detectives, who were
11 going to oversee and do the eavesdropping, any instructions
12 as to what they should do in the event they heard a conversa-
13 tion that related to bonds other than industrial bonds or
14 bearer bonds of the postal type by the person other than
15 Joe Martino?

16 A I have no specific recollection with
17 respect to that. Except that, if I instructed them, I would
18 have told them to record it.

19 Q But you don't know if you did or not? Did or
20 not actually so instruct?

21 A Sitting here today, I don't know. I may have
22 or Charles Clayman might have. But if I did give any
23 instructions concerning it, it would be in the affirmative
24 to record it.

25 Q Now, in the event your men were to adhere, I'm

1
2 DIRECT EXAMINATION

3 BY MR. MEYERSON: (Cont'd.)

4 Q When did you receive the written transcripts?
5 That must have been much later, is that not true?6 A The usual procedure would be to deliver the
7 transcripts in the morning, which would cover the following
8 24 -- the previous 24 hours. And that's when we would get
9 it, the following morning.10 Q When did the first conversation start coming
11 over?12 A July 11th was the first set of calls we
13 received.14 Q And on July 11th, did you know that Paul
15 Labriola was involved with these particular bonds in any
16 criminal way?

17 A No, sir.

18 Q Did you know that the man who responded
19 to Paul was Paul Labriola? At that particular time?

20 MR. SONENSHINE: Which time, please?

21 MR. MEYERSON: At the time of July 11th,
22 when the first conversaion -- conference was
23 recorded?

24 THE WITNESS: No.

25 Q When was the first time that you knew --

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A Yes.

Q Who were those persons?

A It would be Detective Boyle, I believe Huller, possibly O'Donnel, and Mr. Newman and myself and I believe that Reinhardt may have been in the room also. I'm not certain.

Q How about the playback of the second tape? Were the same persons present?

A Yes.

Q Now, were they listening to the tape or were they instructed to listen to the tape in order to familiarize themselves with the voices of this man whom they were told was a Mr. Martino? Was that one of the purposes for which the tape was being listened to?

A To familiarize themselves, yes. One of the reasons, correct.

Q I take it, at that time, it was contemplated that they may have occasion to use a telephone tap at some later time so that when the voice of Mr. Martino was heard, people could identify it from having heard the tape that was just played, is that so?

A At that time there was no contemplation of any wiretaps.

Q But there did come a time, did there not,

1 don't we mark the whole folder in evidence?

2 MR. SONENSHINE: Not right now.

3 THE COURT: He does not want to do it right
4 now.

5 Q Now, let me show you one of the observation
6 reports included in Exhibit A for Identification, and ask
7 you if that will refresh your recollection as to when you
8 learned for the first time that Labriola was identified as
9 being in fact the person who had exited the vehicle regis-
10 tered to him on several occasions, and gone in and out of
11 the 1,2,3 Club, on several occasions prior to July 6th.

12 A Am I permitted to look at the previous reports?

13 Q Yes, you can.

14 That is dated July 6th, the one that I showed you.

15 THE COURT: All right.

16 A All right, sir.

17 First mention of Labriola by name would be on this
18 date of July 6th.

19 Yes, 1972. That is the first time they referred to
20 him by name. That would be what I have known about it, and
21 that would be July 7th or if they gave it to me on July 5th
22 and gave it to me by the 7th --

23 Q You knew that Paul Labriola had been frequently
24 in the 1,2,3 Club based on the reports and conversation with
25

1
2 Q Now, on either the 12th or 13th did you or
3 any of your men report back to the District Attorney's
4 office they now had reason to believe that Paul LaBriola's
5 conversations were being intercepted over that telephone?

6 A I know I had a conversation with Mr. Clayman,
7 the Assistant D.A. I don't know exactly when it was,
8 whether it was the 13th or 14th, but I know I did have a
9 conversation.

10 Q All right, either on the 13th or 14th.

11 A Possibly on the 13th, that there was a suspic-
12 ion that this fellow may be the Paul LaBriola that was
13 intercepted, but definitely by the 14th when the next con-
14 versation came in that I definitely did speak to him on that
15 day.

16 Q So that if it wasn't on the 13th it was on --
17 it was the next day, the 14th, that you discussed these
18 conversations with Assistant District Attorney Charles Clayman.

19 A It may have been on both days. I am not
20 certain, on both days.

21 Q Now, did you at that time say to Mr. Clayman
22 anything about whether an order should be obtained to
23 authorize further interceptions beyond the 14th of Labriola's
24 conversations of the 1234 club telephone?

25 A On the 14th, definitely.

Bocina-cross

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Q What did you say to Mr. Clayman?

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A Well, I told him that we had a series of conversations and we now felt that it was Paul LaBriola, and not the Joe Martino known as Paul, and that we felt that there should be an amendment.

7

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Q What did Mr. Clayman say to you with respect to an amendment, if anything?

9

10

A He indicated to me that he would add it on the renewal.

11

12

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Q That would be coming up when? When would that order expire that you were then doing the wire tap under, do you recall?

14

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A It would be 30 days after the date that the judge signed it.

16

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MR. MEYERSON: The 27th day of July, the new order.

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MR. SONNENSHINE: I think we can stipulate, your Honor, that the amended order, or extension order, or however we denominated, was applied for and signed on the 27th day of July, 1972.

22

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Q Now, did you ask Mr. Clayman whether or not you should continue to intercept Joe -- rather, Paul LaBriola's conversations in view of the fact that you now knew he was a different person than the Joe Martino that you were supposed

Bocina-cross

to tap? Did you point that out to Mr. Clayman?

A I'm almost certain that I had to discuss that, sure.

Q And did you ask Mr. Clayman whether you should discontinue intercepting any of Paul LaBriola's conversations over the 1234 club telephone?

A I would say it was agreed upon to continue the interception of phone calls of Paul LaBriola.

Q You say it was agreed upon. Do you mean he told you to do it and you agreed to do it?

A Yes.

Q So now between the 14th of July and the 27th of July you thereupon continued to intercept every conversation of Paul LaBriola that came across your wiretap?

A Yes.

Q Is that right?

A Yes.

Q They were taken down in full, that is, you recorded his entire conversation in each instance?

A Well, no, not all of them. The criminal conversations were recorded in full. The other ones -- there were some that were cut short, non-pertinent, social.

Q How many conversations of Paul LaBriola's did you intercept between the 14th of July and the 27th of July?

1 the conversations of July 12, July 13th and July 14th.

2 We can mark them as one exhibit for Identification.

3 THE WITNESS: There are three conversations.

4 MR. MEYERSON: Your Honor, I believe all the
5 reports were marked in Evidence.

6 MR. SONENSHINE: Then we do not need a separate
7 marking.

8 Q With respect to July 11th, you say there were,
9 three calls for which a party named "Paul" was intercepted?

10 A Yes.

11 Q Were they all incoming calls, the party named
12 Paul was at the 1,2,3 Club?

13 A Yes, sir.

14 Q Did you intercept those conversations because
15 the party who answered the phone or spoke was reported to
16 be Paul?

17 A That would have come into it too.

18 Q Were the three voices of the party named "Paul"
19 the same voice on the three occasions -- belonging to the
20 same individual?

21 A Yes.

22 Q Now, prior to recording any conversations at
23 all on July 11, you had occasion -- did you not -- to listen
24 to telephone conversations recorded at the District Attorney's
25

1
2 the Reinhardt tapes at the plant?

3 A No, sir.

4 Q Were the originals or copies of the originals --
5 the original Reinhardt tapes accessible to you if you wanted
6 to listen to them?

7 A If I went down they would be, yes.

8 Q When you heard the very first conversation of
9 a party named "Paul," did you make a determination in your
10 own mind as to whether the party you were recording was or was
11 not the voice of Joe Martino who had suggested that he be
12 called Paul to Mr. Reinhardt?

13 A It was the first conversation, I wasn't sure
14 who it was.

15 Q What I am getting at is: Were you able to make
16 a determination as to whether or not the party named Paul --

17 A No.

18 Q -- was the voice of Joe Martino?

19 A No.

20 Q Did you then listen to the tape between
21 Reinhardt and Martino after that?

22 A No, sir, I did not.

23 Q Never again?

24 A No.

25 Q Now, when the second conversation on July 11th,

1
2 Q Anybody named "Paul" you would listen to; is
3 that correct?

4 A If I thought it pertained to the case, yes.

5 Q Now, when you say "When you thought it pertained
6 to the case," what does that mean?

7 A Well, in other words, would it have any bearing
8 if I thought it had any bearing on the investigation.

9 Q Let me show you the report of transcript of
10 conversation No. 1 on July 11th. You overheard the entire
11 conversation from start to finish, did you not?

12 A Yes.

13 Q Could you tell us what there is in conversation
14 No. 1 that you say entitled you to continue listening to that
15 conversation to the very end?

16 A It was the first conversation of the day --
17 the first conversation on the plant and if you see it says
18 "Male asked for Ralph" and we were interested in a Ralph and
19 the male asks, "Is Paul there." Right then and there would
20 make you suspect and it is a short conversation and we
21 listened to it.

22 Q All right, when you got through listening to
23 it, there was nothing that pertained to your investigation,
24 was there?
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A I didn't know what it was.

Q It was a zero to you as far as you were concerned?

A Nothing is really a zero.

Q They didn't talk about industrial bonds, did they?

A I didn't know what it was.

Q Since you did not understand what it was or did not know what it was, you just continued to listen?

A It was a very short conversation. We listened to the end.

Q Short or long, how many pages does it take to write down that conversation?

A How many pages? A little over one.

Q Now, let me call your attention to the second conversation on July 11th.

A Yes, sir.

Q First let me ask you this: Do you know who the two voices belonged to at the time you heard that conversation?

A No.

Q Did you have any idea of the name of the party who was calling into the party named "Paul" at the club?

A No, sir.

Q Would you tell us, please, was there anything

1
2 in the second conversation in your mind that connected it to
3 the investigation of the industrial bonds or the postal
4 savings bonds?

5 A The second conversation I would say, as it came
6 in, particularly the part about the middle of the page where
7 the party says:

8 "I have the piece to make. I have the ideas." That
9 would have been -- would have had a bearing on the case. I
10 felt it would have anyway.

11 Q Did you know who Paul was at the time -- at that
12 point?

13 A No.

14 Q Did you know who the other party was?

15 A No.

16 Q Was there any reference to industrial bonds or
17 postal savings bonds as such?

18 A No, sir.

19 Q Was there any reference -- was the word "bonds"
20 used?

21 A I do not believe it was, no, sir.

22 Q No, would you look at the third conversation for
23 July 11th.

24 A Yes, sir.

25 Q Did you record the entire conversation?

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A It had been recorded, yes.

Q Now, could you tell us -- Do you know the name of the party that was calling in to speak to Paul?

A No, sir.

Q Was there anything in that conversation that indicated to you that the people speaking were accomplices or co-conspirators of Joe Martino --

A Yes --

Q -- or Ralph?

A I'm sorry?

Q Or this party named "Ralph" the last name you do not know?

A It was a cryptic conversation. I thought it could possibly have something to do with it.

Q Would you tell me what you regarded as cryptic in that conversation?

A Well, for instance he says "I had to get somebody out and that party, you know, he had the headache."

He asks, "Is he out?"

Says "Oh, why? Did he pick up the things that he's supposed to pick up?"

Then it says "No, it's only out a couple of hours. I will have them for you in the morning. You can definitely have them any time you want them."

1
2 That could have a bearing. I didn't know what, but
3 possibly it could.

4 Q When it says "somebody is out" does that mean that
5 person is a co-conspirator of Joe Martino or the Ralph named?

6 A I didn't know.

7 Q Wouldn't you say that that had as much signi-
8 ficance as he was asking how he was feeling --

9 MR. MEYERSON: Objection, your Honor.

10 THE COURT: He already answered.

11 MR. SONENSHINE: Withdrawn.

12 Q So at the end of July 11th, this was all the
13 information you had, these three conversations, that you felt
14 authorized you to continue listening to the conversations
15 between this unknown Paul and the unknown party calling in;
16 is that right?

17 A Yes.

18 Q Now, did anybody follow this fellow named "Paul"
19 on the 11th of July?

20 A Detective Boyle had.

21 Q When did he follow him?

22 A I do not know the exact time.

23 Q Did he follow him by virtue of the fact that he
24 had just overheard one of these three conversations?

25 A Yes, he went outside -- that's correct.

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Q So now, he heard Paul and he heard Paul make an appointment, did he not?

A That's correct.

Q And he thereupon left the plant; is that right?

A Yes.

Q And he got into his car?

A I would assume so. I wasn't with him.

Q He reported back to you, did he not, that he followed him?

A Yes.

Q And he reported back that he followed him by car, did he not?

A Yes.

Q And he saw this fellow go to the same place that the voice said he was going to meet somebody, right?

A Yes.

Q And he knew the fellow he was following was in fact Paul Labriola -- he knew him by name on the 11th, did he not?

MR. MEYERSON: Objection, there is no evidence as to that.

MR. SONENSHINE: There is from Sergeant Bocina.

THE WITNESS: I would have to ask Boyle if he knew. I did not know whether he did or not.

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2 Q Hadn't you learned from approximately June 6th,
3 give or take a day, that the fellow whose car was parked in
4 the vicinity of the club and registered to Paul Labriola, was
5 in fact Paul Labriola's car?

6 A That is correct, but I never heard him speak.

7 Q When this fellow Paul called and this fellow
8 Paul went to a place he said he was going to go, didn't you
9 reasonably conclude that that man who left was the man speaking
10 on the phone?

11 A Possible, but I never heard him speak.

12 Q Well, the man got into the car which was registered
13 to Paul Labriola, was it not?

14 A Yes.

15 Q You had previously seen and Detective Byle had
16 previously seen photographs of Paul Labriola?

17 MR. MEYERSON: Your Honor, we are going over
18 very old material.

19 THE COURT: Yes.

20 MR. SONENSHINE: I do not think so at all.

21 THE COURT: Not only that, we are going over
22 material not covered in the original examination.

23 MR. SONENSHINE: Of course not. The original
24 examination was a dozen questions. I am on issues that
25 we are dealing with.

1 Q Well, let's go to July 12th, the following day --

2 A Yes, sir.

3 Q -- did you report any conversations involving
4 a party named Paul on that day?

5 A Yes, sir, we did.

6 Q How many on that day did you report in their
7 entirety?

8 A I think it is two.

9 (Witness examines documents.)

10 A Two, sir.

11 Q And would you tell us please of the first
12 conversation that you recorded, did you recognize the voice of
13 the party named Paul to be the same Paul as on the previous
14 day? Was that the same voice?

15 A I don't remember if we did or not. I would
16 assume I did.

17 Q And the first conversation involves a fellow
18 named Paul who was in the club, right?

19 A Yes, it's a Ralphie. "Ralphie, it's Ted."

20 MR. MEYERSON: Excuse me. I move to strike out
21 that answer. He said he doesn't know. And he is just
22 assuming.

23 THE COURT: It is speculative at this point.

24 Q Well, the first conversation was between somebody

A-21

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2 To me there is a connection. I think there is a
3 connection in my mind that Ralph knew Ted and he knew this
4 Paul. I think to me I would say there is a connection there.

5 Q On that basis would you say that anybody that
6 Joe Martino knew might be a co-conspirator? Is that what you
7 are saying?

8 A Not really because we are talking about this
9 one conversation, right?

10 Q What did Paul say or Ted say that tells you as
11 a Detective that there may be co-conspirators of Martino or
12 Ralph?

13 A Let's see, it says:

14 "Meet me by Nick's.

15 "All right, I will meet you there.

16 "How long?

17 "15 minutes.

18 "O.K., baby, good-bye."

19 It was a very short conversation. It could have been
20 something there. I am not positive. It is possible that
21 there was something there. I thought there was something
22 there at the time. Furthermore, it's very short.

23 Q Now, there was another conversation recorded on
24 the 12th, was there not?

25 A Yes.

1
2 Q Now, what I am asking you is what did you hear
3 either of those two people speak about to each other that said
4 to you as a party intercepting the conversation I would con-
5 tinue to listen to this conversation because it appears to be
6 a conversation between co-conspirators Martino or Ralph?
7 Tell me the words they said that authorized you to continue
8 listening to the conversation.

9 A One, it is possible I actually had Joe Martino
10 on the phone, that is, speaking, the male said, "They paid
11 them.

12 Q "Paul: Yes, sure, glad to hear that.

13 "Where are you now? I will meet you.

14 "I am at the candy store.

15 "You know I need a couple of bucks. Even this running
16 back and forth costs me money. All right."

17 Now, you say that shows a conversation between co-
18 conspirators of Martino.

19 A I want to know who that was. Maybe it was
20 Joe Martino there. I would like to find out who is it.

21 Q Now, this is the fifth conversation you have
22 heard of this fellow Paul, is it not so?

23 A It's very early in the investigation.

24 Q And yet still you had not called for the tapes
25 which you knew contained Martino's voice to compare them?

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(Mr. Gilmartin hands document to Mr. Sonenshine.)

Q I show you Government's Exhibit 9 in Evidence,
also marked Defendant's Exhibit A for Identification.

A I can find it.

Q And I ask you to find the observation report
for July 12th with respect to the 5:45 p.m. conversation.

A I have it.

Q Was it your report?

A Yes, sir.

Q Your handwriting? Does it refresh your recollec-
tion that it was unquestionably you that followed the man
speaking on the phone?

A Yes, that's correct.

Q You went outside and left the plant as soon as
that conversation was terminated, is that right?

A Yes, sir.

Q And you got into your vehicle?

A Apparently I did.

Q Did you see a vehicle leave the 1,2,3,4 Club?

A I don't have it marked down as a vehicle.

Q Well, if I read the opening --

A Left the automobile. The subject left the
automobile and went to the candy store on the corner.

I don't have a description of the automobile here.

1
2 Q Well, let me read the first sentence and see if
3 we are looking at the same report.

4 Does the opening statement on that report say:

5 "About 5:45 p.m. --"

6 A That's right, yes, driving to Coney Island
7 Avenue and Avenue L where we parked --

8 Q Right. You say about 5:45 p.m. this day Paul
9 Labriola was observed leaving the 1,2,3,4 Club? Right?

10 A That is correct.

11 Q So you knew beyond question that the party who
12 drove away was indeed this very same defendant, Paul Labriola,
13 who sits in this courtroom now?

14 A Not beyond question, no, because I didn't know
15 his voice. At the end of the observation probably we had
16 Paul Labriola, and I had so informed the Sergeant.

17 Q So that in substance the man you saw driving
18 away on the 12th was undoubtedly Paul Labriola, right?

19 MR. MEYERSON: Objection. The defendant answered,
20 your Honor.

21 THE COURT: All right.

22 Q By the end of the observation which was what
23 time?

24 A It is not marked what time your observation is
25 over.

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2 Q But it was a matter of minutes or so, a half
3 an hour?

4 A Somewhere around that.

5 Q So within a half hour of 5:45 p.m. you knew
6 that the man you followed was Paul Labriola?

7 A The man I followed was Paul Labriola, that is
8 correct.

9 Q And you knew that that man went to the same
10 place that the fellow named Paul on the phone said minutes
11 before, said he was going to go to, didn't he?

12 A That is correct.

13 Q Did you conclude from that that the man named
14 Paul on the phone was Paul Labriola whom you followed to the
15 place that was designated in the phone conversation?

16 (Continued on next page.)
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2 A I informed the Sergeant later on that we probabl
3 had Paul, not having heard his voice and not having heard it,
4 that we probably had Paul Labriola on the phone.

5 Q And this Paul's voice that you heard was the
6 same Paul that you heard earlier that day, that same voice?

7 A I believe it was.

8 Q So would it be fair to say that by the end of
9 July 12th you were fairly certain that the Paul that you had
10 been recording was Paul Labriola and not Joe Martino?

11 A Probably. Again I still hadn't heard Mr. Labrio
12 speak. There was a possibility that we didn't have the
13 right man.

14 Q Well, what possibility would you envision that
15 the man named Paul who spoke on the phone, and minutes later
16 turned out to be the Paul Labriola who went to the same
17 place that Paul spoke -- what conceivable thought did you
18 have that maybe it was somebody else?

19 A It could be. Possibly.

20 Q Are you referring to the theoretical possibility
21 that anything could be?

22 A I am referring to that, that it is possible we
23 didn't have the right Paul.

24 MR. MEYERSON: Objection. It's really not
25 relevant any way.

1
2 so to speak, was the voice of the recording of the 11th or
3 12th of July -- was it Paul Labriola or somebody else?

4 A Right.

5 Q Did anybody say how about pulling the tape of
6 Joe Martino to see if that voice is the same as Labriola's?
7 Did anybody suggest that?

8 A I don't recall it.

9 Q Did anybody say to you let's not listen to Joe
10 Martino's voice because it might turn out to be different
11 than Paul --

12 A No.

13 Q In short you ignored the entire Joe Martino
14 conversation for comparison purposes, or at least you didn't
15 use it? Right?

16 A We didn't use it, not ignored it.

17 Q Pardon?

18 A We didn't use it, no.

19 Q Now, lets go to July 13th. Did you record
20 any conversations on that day?

21 A There were conversations recorded, yes, sir, not
22 of Paul.

23 Q No conversations with Paul on the 13th?

24 A None.

25 Q Did there come a time on the 14th when you recorded

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a conversation, did there not?

A Yes.

Q Involving Paul?

A Yes, sir.

Q And also involving Joe Martino?

A Yes, sir.

Q Did you on the 14th come to the conclusion that Joe Labriola was not -- that is, that Paul Labriola was not Joe Martino?

A Yes.

Q Did you thereafter continue to record conversations of Paul whom you now knew to be Paul Labriola and not Joe Martino?

A After the 14th?

Q After the 14th.

A Yes.

Q Approximately how many conversations between the 14th of July and the 27th of July did you record with respect to the voice that you now knew was Paul Labriola?

A I don't know. I have no idea.

Q Would you say it was more than 20?

A I would assume so. But again I am not positive.

MR. SONENSHINE: Can we have the rest of the plant reports?

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MR. GILMARTIN: Up until when?

MR. SONENSHINE: The 27th.

THE WITNESS: Up to what date?

MR. SONENSHINE: The 27th of July.

And for your information I selected that date because that is the date the second order was now signed by Judge Petrano for further wiretapping.

BY MR. SONENSHINE:

Q Would you go through the reports which have been handed to me by Mr. Gilmartin of the Secret Service who is assisting Mr. Meyerson, showing the reports from Monday, July 17th through and including Thursday, July 27th and just tell us approximately how many completed conversations with Paul Labriola as a party were recorded between the 14th and the 27th of July.

(Witness examines documents.)

MR. MEYERSON: Your Honor, perhaps this might be an appropriate time to take a five-minute recess.

THE COURT: Well, I have an appointment at 4 o'clock. That is why I am waiting until 4 o'clock. Well, we will take a recess now. He could be in there at this point. We will take a five-minute recess.

MR. MEYERSON: How long will we be continuing today?

1 THE COURT: Until about 4:30.

2 (Short recess.)

3 (At 4:20 p.m. the hearing resumed.)

4 THE COURT: O.K., Mr. Sonenshine.

5 I assume you looked up everything that you were
6 asked to.

7 THE WITNESS: I believe he said completed
8 conversations.

9 THE COURT: Did you look at them?

10 THE WITNESS: Yes, I counted 20.

11 THE COURT: He counted 20.

12 MR. MEYERSON: Your Honor, may Sergeant Bocina
13 come in now? He has completed as a witness.

14 THE COURT: Surely.

15 MR. SONENSHINE: Can I continue, your Honor?

16 THE COURT: You might as well.

17 MR. SONENSHINE: All right.

18 BY MR. SONENSHINE:

19 Q Are you able to tell us, Detective Huller, how
20 many completed conversations, that is from start to finish,
21 were recorded of the voice of Paul Labriola between July 14th
22 and July 27th at the 1,2,3,4 Club?

23 A I counted 20.

24 Q Now, of those 20 completed conversations, were
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2 there more or less a few each day from the 14th to the 27th?

3 A I didn't take notes, on some days there were
4 a number of calls and on other days I don't think there were
5 any, I am not sure which days.

6 Q Now, on those conversations between, well,
7 let us say the 15th to the 27th, were they conversations in
8 which the voice of Paul Labriola was recorded as being inside
9 the club?

10 A Yes.

11 Q And are you able to tell us the names of the
12 parties who were calling into the club on those conversations?

13 MR. MEYERSON: Your Honor, the logs speak for
14 themselves.

15 MR. SONENSHINE: No, they don't, they only con-
16 tain notations, I am asking him --

17 A I don't know if we knew who the people were.

18 Q Are you able to tell by looking at them whether
19 you knew who they were?

20 A At that time?

21 Q Yes.

22 A I don't know whoever it was at that time.

23 Q You knew Paul Labriola's voice by then?

24 A Yes, sir.

25 Q All right, but as to who the others were, they

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A That is correct.

Q That was an inference that you drew?

A That is correct.

Q Now, after the 14th did you report to anyone else, that is, perhaps Sergeant Bocina or somebody in authority above him, perhaps someone in the District Attorney's office, that you now knew that the party named Paul that you had been recording was a party in fact known as Paul Labriola, the defendant in this case?

A We did have a discussion either on the 14th or the next day, whatever it was.

Q You say "we had a discussion," who was the party to that discussion?

A Sergeant Bocina, I was in contact with him.

Q Did you advise anyone in the District Attorney's office that you now knew the identity of the Paul that you had been recording as Paul Labriola?

A I don't believe I did.

Q Now after that you continued to record Paul Labriola's voice; is that correct?

A That is correct.

Q And so far as the plant was concerned at the 1,2,3,4 Club, that closed down on or before September 1st?

A I believe it did, yes.

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2 Q So that after September 1st the plant was shut
3 down and no more conversations were recorded at the 1,2,3, 4
4 Club?

5 A That is correct.

6 Q And a termination was made because you knew the
7 place was closed and nobody was there?

8 A That is correct.

9 Q So you recorded nobody, is that it, in the
10 1,2,3,4 Club?

11 A That is correct.

12 Q Now, you subsequently obtained an order, did
13 you not, to record conversations at a place called the Say Hey
14 Club?

15 A That is correct.

16 Q And that was in an entirely different location
17 in Brooklyn, wasn't it, from the 1,2,3,4 Club?

18 A That is correct.

19 MR. SONENSHINE: May I have the order, please,
20 the five orders?

21 THE COURT: You have them right there.

22 (Document handed to Mr. Sonenshine.)

23 Q One other thing, Detective Huller --

24 A Yes.

25 Q In the course of recording the conversations of

DDS:tr
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1 MR. SONENSHINE: If your Honor please, if I
2 may make a statement, and it is just this, I may work
3 this out by stipulation with Mr. Meyerson, but I am
4 directing my attention to it so your Honor will be
5 able to follow the argument that I am making, which
6 is to the order of July 27 which is the second of that
7 series. --

8 THE COURT: I thought that we agreed that you
9 would file that in writing so I understand what your
10 objection really is as far as this matter is
11 concerned.

12 MR. SONENSHINE: No, what I am getting at,
13 your Honor, is the question of whether or not I have
14 to call another witness. And I may be able to
15 avoid that by stipulation.

16 THE COURT: All right, stipulate to it.

17 MR. SONENSHINE: I don't know whether Mr.
18 Meyerson is aware of what I am looking for perhaps,
19 although he may have gleaned it from some of the
20 questions I put to Detective Huller this morning.

21 And the order of July 27 was the order which
22 authorized the secret entry to the premises in order
23 to place a bug in the premises, in addition to the
24 interception of wire communications.

25 And that order provided certainly with respect

1 to the bug if not with respect to the tap itself,
2 but certainly with respect to the bug. The order
3 provided that no bug was to take place after 7:30 p.m.
4 on any day. It was put that explicitly in the order.

5 Now, I have examined the records kept by the
6 police officers with respect to the bug and they
7 cover a period from August 11 to August 30, which I
8 assume is the entire period, at least I so assume for
9 the moment, and it appears on virtually every single
10 day with the possible exception of one day between
11 the period of August 11 to August 30 that that bug
12 ran continuously from early afternoon, and sometimes
13 around noontime, or a little before, right through
14 the entire day past 7:30 p.m., and in fact 8:30,
15 9:30, 10:30, 11:30, 12:30, 1:30 a.m. of the next day,
16 2:30 a.m. the next day, and so on.

17 Now to me that is a clear failure of minimi-
18 zation, as clear as you could possibly get, because
19 they didn't lift one finger, according to their own
20 records, to minimize the above.

21 And what is more significant perhaps, is that
22 in applying for the third order they refer to the
23 interception of bugged conversations with respect to
24 Labriola.

25 So if they failed to minimize under the second

1 order with respect to the bug they couldn't use
2 any other conversations thus obtained and thus
3 intercepted, but instead and in fact they did use it
4 in applying for the third order -- excuse me -- yes,
5 for the third order, and subsequently the fourth
6 depended upon the validity of the third, and the
7 fifth on the fourth, and so on.

8 So it becomes critical to this situation
9 ascertain whether or not they did in fact, the
10 records indicate, fail to minimize the use of that
11 bug.

12 Now, that involves other officers. I propose
13 to call them unless we work out a satisfactory
14 stipulation with MR. Meyerson.

15 MR. MEYERSON: Where is the bugged conversation
16 that you refer to?

17 MR. SONENSHINE: It is in the -- yes, I will
18 tell you in one second as soon as I refer to my
19 notes.

20 Paragraph 1, which is page 10 of Mr. Clayman's
21 affidavit --

22 MR. MEYERSON: Page 10?

23 MR. SONENSHINE: Yes. That was submitted in
24 support of the proposed third order which was ulti-
25 mately signed, that is the order was signed by Judge

1 Vetrano on September 11, 1972.

2 That paragraph 1 reads as follows:

3 "... I am further informed by Detective
4 O'Donnell that on August 11, 1972 Joseph Martino
5 and Paul Labriola had a conversation at the 1234
6 Club, Inc. According to Detective O'Donnell their
7 conversation pertained to the acquisition and cashing
8 of counterfeit securities ..."

9 MR. MEYERSON: It doesn't have any significance,
10 your Honor.

11 MR. SONENSHINE: Well, you may say that it
12 doesn't, but I notice the significance that every
13 other conversation referred to says "telephone
14 conversation". Now they begin to say "conversation."

15 I don't know. I suppose it's an argument.
16 But the fact remains we would have to have further
17 testimony with respect to these officers.

18 MR. MEYERSON:: No, that doesn't necessarily
19 follow at all. There could have been an overhearing

20 --

21 MR. SONENSHINE: But in any event it would
22 seem we can't work out the stipulation.

23 MR. MEYERSON: No, I will stipulate that the
24 Government -- that the New York detectives did not
25 stop at 7:30. But I will also put in that we do not

1 have -- we are not producing any evidence at trial
2 from the bug nor did we gain any evidence relating to
3 -- gain any evidence leading to anything else from
4 the --

5 MR. SONENSHINE: Well, I do not think that
6 resolves the problem at all, Judge.

7 MR. MEYERSON: Well, that is the stipulation.

8 MR. SONENSHINE: I appreciate that, and that
9 part is fine.

10 MR. MEYERSON: That's what you wanted. That's
11 what you got.

12 MR. SONENSHINE: Well, I want more than that.

13 THE COURT: What more do you want?

14 MR. SONENSHINE: Suppose we do this If I may,
15 your Honor, may we have our mid-morning recess and
16 I will get my notes and I can tell your Honor
17 exactly what is needed.

18 THE COURT: Let me know whether you agree or
19 not.

20 MR. SONENSHINE: Thank you, your Honor.

21 THE COURT: I will be out for ten minutes.

22 (Short recess.)

23 (After recess.)

24 THE COURT: All right.

25 MR. MEYERSON: Well, the Government had rested.

1 excised from the conversations, it can be terminated
2 at 7:30, even though it may have been taken, and unless
3 you can show it was of such tremendous prejudice, and
4 that it was used to bolster the case in some way, then
5 it has no effect as far as I am concerned, and 7:30
6 would be the time of the Order, because it can be severed,
7 and the legal part of the Order is enforceable.

8 MR. SONENSHINE: The prejudice that results from
9 a violation of the Court's Order by the Government is
10 inherently prejudicial, and that is our position, with-
11 out a separate showing being necessary.

12 Now, that was not decided by Judge Roberts, and
13 we will move, probably, back to the State Court to re-
14 open the State Court hearing, but I do ask your Honor
15 to consider that fact, as I think the other opinions
16 have indicated --

17 THE COURT: I have honestly and sincerely re-
18 viewed and considered every salient fact in this case,
19 and I have likewise reduced it now to a writing which will
20 be dictated into the record. I have taken into consider-
21 ation the various arguments that you have given me.
22 Each one of those points is discussed in my memorandum
23 to be dictated into the record. I realize the very, very
24 serious consequences of the decision that I make, both
25 to the Government and to society.

1 This Court feels it is a question probably for
2 appeal. I must decide as I am mandated by the cases,
3 and as I read them and see them, particularly in view
4 of the cases which must be followed in this Circuit.

5 Now, there are other cases that you have cited,
6 and this is not my decision, I am not reading it at this
7 point, there are other cases you have cited that may
8 very well apply in the Circuit or the Department for
9 which they have been written.

10 MR. MEYERSON: Your Honor, excuse me.

11 I think maybe we ought to bring William Brown
12 here, as long as he is here.

13 THE COURT: Yes, let's bring him out, I haven't
14 made the decision yet, I'm just talking about it.

15 Now, the applicable law could be followed in the
16 State Court, but I don't think it is a mandate as far
17 as the Federal jurisdiction is concerned.

18 MR. SONENSHINE: My own view of it, as I have
19 indicated in my memorandum, your Honor, is that since
20 the State can impose upon itself greater restrictions
21 than the Constitution demands in terms of broadening
22 the rights of defendants under the Constitution, as op-
23 posed to narrowing his rights, if the State Courts choose
24 to place greater restrictions upon State conduct, or
25 the conduct of their State officers, vis-a-vis defendants.

1 or potential defendants, then I don't think the Federal
2 Courts have the right to say that they adopt a broader
3 view of it.

4 THE COURT: They are not adopting the Federal
5 statute, and that is what we are doing here, that is
6 my interpretation of the Federal statute, even though
7 there may be a State statute which in terms sounds the
8 same or similar to, and the interpretation may be even
9 more narrower in the State system.

10 MR. SONENSHINE: I think, your Honor, this be-
11 comes a unique situation where a prosecutor in the
12 Federal Court must include the State as well as the
13 Federal, both.

14 THE COURT: I think we are doing that.

15 MR. MEYERSON: If I may interrupt for a second.
16 I don't mind something further being put on the record,
17 but I thought that argument had stopped on Friday, and
18 that this was going to close, and now to continue, I
19 think, is a little --

20 MR. SONENSHINE: I have concluded what I wanted
21 to say.

22 THE COURT: I am ready, too. I am ready to place
23 on the record the Court's determination with reference
24 to the suppression hearing.

25 In United States versus Principe, et al., 73-CR-972

1 A serious question is raised as to whether the
2 conversations of defendants Ralph Principe, Sal and
3 Michael Miciotta, and Dawn Slomka must be suppressed
4 because they were overheard in apparent violation of
5 both New York Criminal Procedure Law Section 700.50(3)
6 and Title 18, U.S.C. Section 2518(8)(d). Each of these
7 defendants received notification of the eavesdropping
8 more than one year after the termination of the final
9 extension of the eavesdropping order. Although the
10 statutes appear to mandate suppression of conversations
11 overheard where no notice is given within ninety days after
12 termination of the period of an order or extensions
13 thereof, the decision of United States v. Rizzo, 492
14 F. 2d 443 (2d Cir. 1974) interprets the statute with
15 greater flexibility. The Court of Appeals held in Rizzo
16 that "the touchstone to the determination whether to
17 suppress wiretap evidence on a claim of failure of notice
18 should be prejudice to the defendant" 492 F. 2d at 447.
19 See also United States v. Manfredi, 488 F. 2d 588 (2d
20 Cir. 1973). These defendants received notice on Novem-
21 ber 8, 1973, but the suppression hearing was not held
22 until more than one year later. In the absence of a
23 showing of actual prejudice to the defendants, and in
24 view of adequate minimization of non-pertinent conversa-
25 tions, the motion is denied.

1 Defendants Labriola and Mandel were given notice
2 about 120 days after termination of the final extension
3 of the eavesdropping order. For the reasons expressed
4 as to defendants Principe, Slomka, Sal and Michael
5 Miciotta, the motion is denied. As to all other defen-
6 dants, the motion to suppress pursuant to 18 U.S.C.
7 Section 2518(d) is clearly without merit and therefore
8 denied.

9 All conversations overheard after 7:30 P.M. in
10 violation of the court order of July 27, 1972 are hereby
11 suppressed. This order does not include conversations
12 overheard pursuant to orders not including the 7:30
13 limitation.

14 To reiterate my ruling previously made in open
15 court, the orders of Justice Vetrano were properly is-
16 sued with probable cause. Whatever defects appeared
17 in the orders were not substantial and were corrected
18 within a reasonable time.

19 Now that is the Court's determination with
20 reference to the suppression hearing as to these defen-
21 dants.

22 MR. MEYERSON: Did you also find on minimiza-
23 tion?

24 THE COURT: I did, it is in there.

25 MR. MEYERSON: Okay.

1 THE COURT: All defendants, not the ones that
2 pleaded Guilty.

3 MR. SONENSHINE: No, the ones on trial.

4 THE COURT: The ones that pleaded Guilty have
5 waived any further proceedings, and their rights, no
6 matter what occurs in this proceeding, has no bearing
7 as to what they have done.

8 MR. WEISWASSER: To spell it out further for
9 the reecord, although we are going to stipulate as to
10 certain evidence that each piece of evidence that goes
11 in has a continuing objection that it is the product
12 of illegal eavesdroppings.

13 THE COURT: Absolutely, the Court recognizes
14 that, and I have made that quite clear that I am of
15 the opinion this should go on appeal, and that an appel-
16 late review is proper under the circumstances.

17 MR. MEYERSON: Then the Government is ready to
18 proceed.

19 MR. WEISWASSER: The defendant Labriola is ready
20 to proceed.

21 MR. COOPER: The defendant Principe is ready to
22 proceed.

23 MR. SONENSHINE: The defendant Dawn Slomka is
24 ready to proceed.

25 MR. MEYERSON: At this time, your Honor, the

1 both sides having rested, I now move on behalf of the
2 defendant Dawn Slomka and other counsel state they join
3 me in this motion for their respective clients, I now
4 move to dismiss, and for a judgment of acquittal upon
5 the ground that all the evidence taken together fails to
6 establish guilt beyond a reasonable doubt sufficient for
7 a conviction.

8 THE COURT: You join in that motion?

9 MR. WEISWASSER: Yes, your Honor, defendant
10 Labriola joins in the motion.

11 MR. COOPER: Yes, your Honor.

12 THE COURT: The Court, upon the resting of all
13 parties, and motions of defendants for a direction of
14 acquittal, and for dismissal of the indictment, the
15 Court denies the motion and finds the defendants guilty
16 as charged in Count One of the indictment and as to Mr.
17 Labriola, guilty as charged in Counts One and Two of
18 the indictment.

19 As to the defendant Slomka and the defendant
20 Principe, application that they be continued as previ-
21 ously on bail, and they shall then return to court upon
22 the day of sentence.

23 MR. WEISWASSER: I think the Government is con-
24 senting between now and the date of sentence that the
25 defendant Labriola be continued on bail.

ORDER OF MR. JUSTICE VETRANO
DATED JULY 27, 1972

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

| | |
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| -----X | : |
| In the Matter | : |
| of | : |
| the interception of certain wire communications | : |
| transmitted over telephone line and instrument | : |
| bearing number 377-9840 listed in the name of | : |
| One-Two-Three-Four Club, Inc., located on the | : |
| ground floor at 1234 East 15th Street, Brooklyn, | : |
| New York and the interception of certain oral | : |
| communications occurring at said premises. | : |
| -----X | : |

ORDER RENEWING
AND AMENDING
EAVESDROPPING
WARRANT

It appearing from the affidavits of Frank S. Hogan, District Attorney of the County of New York and Charles E. Clayman, Assistant District Attorney of the County of New York, said affidavits having been submitted in support of this eavesdropping warrant and incorporated herein as part hereof, that there are reasonable grounds to believe that evidence, of the crimes of Grand Larceny in the Second Degree and Criminal Possession of Stolen Property in the First Degree and Conspiracy to commit said crimes may be obtained by continuing to intercept certain wire communications transmitted over the above-captioned telephone line and instrument and by intercepting certain oral communications at the above-captioned premises, and the Court being satisfied that comparable evidence essential for the prosecution of said crimes could not be obtained by other means, it is

ORDERED, that the eavesdropping warrant issued by the

Honorable Larry A. Vetrano on July 5, 1972 is hereby amended to authorize the District Attorney of the County of New York, or any other police officer of the City of New York, acting under the direction and supervision of said District Attorney; to intercept and record the oral communications, concerning the crimes and acts of Grand Larceny in the Second Degree, Criminal Possession of Stolen Property in the First Degree and Conspiracy to commit these crimes, of Joe Martino, Paul Labriola and Ralph, their co-conspirators, agents and associates as described and delineated in paragraphs 8, 9 and 11 of the herein incorporated affidavit of Charles E. Clayman, as such communications occur at the above-captioned premises and that such interception not occur after 7:30 p. m. on any day, and it is further

ORDERED, that the District Attorney of the County of New York, or any police officer of the City of New York acting under the direction and supervision of said District Attorney, is hereby authorized to continue to intercept and record the telephone communications concerning the crimes and acts of Grand Larceny in the Second Degree, Criminal Possession of Stolen Property in the First Degree and Conspiracy to commit these crimes of Joe Martino, Paul Labriola and Ralph, their co-conspirators, agents and associates as described and delineated in paragraphs 8, 9 and 11 of the herein incorporated affidavit of Charles E. Clayman, transmitted over the above-captioned telephone line and instrument, as authorized by the eavesdropping warrant issued by the Honorable Larry A. Vetrano, on July 5, 1972, and it is further,

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ORDERED, that the District Attorney of the County of New York or any police officer of the City of New York acting under his direction and supervision is hereby authorized to make secret entry into the above-captioned premises to install and maintain eavesdropping devices required to execute this warrant, and it is further

ORDERED, that nothing herein contained shall be construed as authorizing the District Attorney or his agents to overhear or intercept any communications of Joe Martino, Paul Labriola, Ralph and their co-conspirators, agents and associates which appears privileged or unrelated to the aforementioned crimes; and it is further


ORDERED, that the agents and employees of the New York Telephone Company are directly constained not to divulge the contents of this order nor the existence of electronic eavesdropping over the above-captioned telephone line and instrument to any person including but not limited to the subscriber of the above-captioned telephone instrument whether or not the said subscriber requests that the said telephone instrument be checked for the existence of said electronic eavesdropping equipment; and it is further

ORDERED, that this eavesdropping warrant shall be conducted in a such a way as to minimize the interception of communications not otherwise subject to eavesdropping under Article 700 of the Criminal Procedure Law, shall be executed as soon as practicable and shall be effective the 3rd day of August, 1972 and its authorization shall continue until the evidence described in paragraphs 8, 9 and 11 of the aforementioned

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affidavit of Charles E. Clayman shall have been obtained and said authorization shall not automatically terminate when the communications described in said paragraphs 8, 9 and 11 have been first obtained, but in no event shall said authorization exceed thirty (30) days from its effective date, to wit, the 7th day of September, 1972.

Dated: July 27, 1972.


LARRY A. VETRANO
Justice of the Supreme Court

AFFIDAVIT OF CHARLES CLAYMAN IN
SUPPORT OF ORDER OF MR. JUSTICE
VETRANO

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X

In the Matter

of

the interception of certain wire communications transmitted over telephone line and instrument bearing number 377-9840, listed in the name of One-Two-Three-Four Club, Inc., located on the ground floor at 1234 East 15th Street, Brooklyn, New York, and the interception of certain oral communications at said premises.

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STATE OF NEW YORK)
)ss.:
COUNTY OF NEW YORK)

CHARLES CLAYMAN, being duly sworn, deposes and says:

1. I am an Assistant District Attorney assigned to the Frauds Bureau of the New York County District Attorney's Office; and am familiar with all the facts and circumstances of this matter, and set forth herein the following as determined in an investigation, and make this application for a further extension of the order authorizing the interception of certain wire communications described above and to amend the order permitting interception of certain oral communications at the above captioned premises. Reference is hereby made to the previous application and affidavits dated July 3, 1972, which are annexed hereto and made a part of this application.

2. Based upon the foregoing application the Honorable

Frank Vetrano issued an Order authorizing the interception of the above entitled public lines and instruments, a copy of which is annexed hereto. Pursuant to this Order the following conversations were overheard on telephone number 377-9840 and recorded:

2(a). At 3:12 p.m. on July 19, 1972 "Ralph" (see paragraphs 23 and 24 of July 3, 1972 affidavit) received the following call:

| | |
|------------|--|
| Tony (out) | Er, I got this thing with me, not, not what we were talking about the other day something else, the "L" thing. |
| Ralph (in) | Yeah "E" |
| Out | Yeah |
| In | Yeah |
| Out | It's completely blank |
| In | Yeah |
| Out | Alright |
| In | What does he want |
| Out | About 20, let me tell you let me tell you how much they got |
| In | Yeah |
| Out | He's got about 20 large |
| In | Yeah |
| Out | They want 30 |
| | X X X X X X X X X X X X |
| Out | He came, he says to me I need everything to make a package right? |

In Yeah

Out Alright now because we're in a jackpot with the other thing

In Yeah

Out So he needs to make a package to make the whole deal go through

In Yeah

Out I like I think I might be getting something. I didn't give him nothing. I didn't show him nothing.

In Well I don't know

Out Did he show you anything

In No

Out Oh oh because I got it in my pocket

In Yeah

Out I ain't going, I ain't going to anyone else that's why I called you.

According to Detective Thomas Huller, shield 2702¹ New York County Distrist Attorney's Squad, the above conversation pertains to the possession by a man named only as Tony of over one hundred thousand dolars worth of stolen bank series "E" bonds, and

1. Detective Thomas Huller is a second grade detective who has been assigned to the District Attorney's Office Squad for the past twelve years and has been a police officer for seventeen years. He has specialized, while on the District Attorney's Squad, in crimes involving stolen securities and fraudulent security transactions.

the offer of these bonds, as well as other stolen securities, for sale to Ralph. According to Detective Huller the "30" refers to thirty points which is the parlance for the price of these stolen "E" bonds, and a package is the customary term for a number of stolen securities which are offered for sale.

2(b). At 2:55 p. m. on July 21, 1972, Paulie (co-conspirator of Joe Martino, see paragraphs 23 and 24 of July 3, 1972 affidavit) made the following outgoing call.

| | |
|-------------|---|
| Paulie (In) | I'll meet you 9 o'clock at Coney Island and "L & M" |
| Leon (Out) | Hah hah |
| In | The luncheoneete |
| Out | Yeah yeah what's new otherwise |
| In | Oh nothing |
| Out | Did you get what you were suppose to get? |
| In | We're getting them. He's got them, and we're getting them tonight, so eh remember that thing that you needed that little stamp, do you still have it? |
| Out | Eh come again |
| In | Do you know the thing you needed the last time the stamp |
| Out | I needed |
| In | Yeah remember the last batch a long time ago |
| Out | Oh yeah yes yes yes yes yes |
| In | Do you still have that stamp? |

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Out Eh'yes I have it right here

In Oh good because that's what we need

Out That one with the eh

In Yeah

Out Wait wait a minute, wait a minute, I have the one
 with the date

In That's the one we need

Out What about the other one

In That one we needed the last time, we need again
 because they've the same thing

According to Detective Huller, his investigations and experience has revealed that stamps are used to validate stolen bonds, securities and checks to render them negotiable. According to Detective Huller the above conversation pertains to the acquisition of a stamp by Paulie to validate bonds, securities and checks which Paulie has in his possession.

2(c). At 10:25 p.m. on July 21, 1972, Paulie received the following call:

Joe When you send the other thing put in an envelope
 but put tissue around it

Paul I got the blank but I don't know if the other guy
 is around to type it up

Joe Send it airmail special delivery. Send it to
 106-20 Sepulveda Blvd. That's my name your
 using Joe Antonakas. I ran into something out
 here, I think I got something real big in the
 broke. It's worth about 200 big ones. I'll see
 you next week. Who do you have to wait for? Leon.

Paulie Yeah he has to do the typing I met Leon tonight

According to Detective Huller "something real big in broke" refers to stolen securities from a brokerage house." The conversation according to Detective Huller, pertains to the shipment of stolen securities and bonds through the mail and the possible acquisition by Paulie of \$200,000 worth of stolen securities; some-time in the future.

3. Since the inception of this investigation your deponent has continued to have conversations with the confidential informant referred to in paragraph 3 of the annexed affidavit, dated July 3, 1972. This informant stated that Martino is still negotiating for the sale of the stolen United States Postal Bearer Bonds. Pursuant to the order referred to in paragraph 1 herein, conversations were overheard and recorded relating to the sale of these bonds and other contraband and a future meeting for said sale.

3(a). At 11:10 a. m. on July 24, 1972 Joe Martino ("Paul") recorded the following return call:

Mr. Vankack (out) Hello Paul

Joe "Paul" Martino (in) How are you doing buddy

Out O.K. boy

In What's cooking
W

Out Aw nothing too much, with you

In Yeah, y'know

Out Everything is alright

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In Yeah, I got the four guaranteed, in my possession,
 and a possibility of seven

Out You mean T

In No, those other things we had

Out Oh those other things

In Yeah them other things are still in the process,
 y'know

Out Uh huh, what about, the the checks

In Well a guy told me he was supposed to get a sample
 today

Out I see

In Er this is alright where you are.

Out Yeah, yeah I'm fine

In Er a city thing y'know

Out Yeah, yeah

In So he said, he can get like get himself some nice
 few pieces

Out Well I tell you what I better do, what time can I
 call you back this afternoon let me get a hold of
 my guy now, and see if I can get him in for tonight,
 maybe tomorrow morning.

In Alright if I'm not here just leave word with the,
 hold on a minute

Out Yeah, who shall I ask for?

In (aside) Ralph, how long are you going to be here.
 What time do you figure you can get in touch with
 this guy.

According to Detective Thomas Huller this conversation

pertains to the offer for sale of four of the Postal Bearer Bonds referred to in the affidavit of July 3, 1972. The conversation also pertains to the possession of stolen Treasury Bonds (T) and stolen checks and their availability for sale.

5. On July 21, 1972 at 9:44 p. m., Detective Thomas Huller observed Paul meet an unknown individual at Coney Island Avenue, said meeting having been previously arranged by telephone conversation (see paragraph 23). Paul is an individual known to Detective Huller as Paul Labriole, B#660346.

6. On numerous occasions the District Attorney's Office Squad has placed the above captioned premises under observation. Pursuant to these observations the following facts have been established:

a) Ralph and Paul Labriola are present at the above premises almost every afternoon from approximately 12:00 p. m. until 7:00 p. m.

b) Joseph Martino is a frequent visitor to the above premises in the afternoon.

c) Only a few other individuals are permitted to enter the above premises during the afternoon.

d) The general public is not admitted to these premises until after approximately 7:30 p. m.

7. Members of the District Attorney's Office Squad attempted to gain entrance to the above premises during the afternoon hours but were told the premises were not open*

* These paragraphs partialy illegible.

8. *It is apparent from the foregoing that Paul Labriola and Joe Martino and other unknown persons engaged in the whole-sale trafficking of stolen bonds and checks from the above quoted material reasonable to expect that future conversations will reveal locations wherein the aforementioned contraband may be recovered. It is also reasonable to expect that future conversations will lead to the source or sources of the aforementioned contraband.

9. From the statements of Ralph, Joe Martino and Paul Labriola your deponent believes that they intend to communicate with persons who have possession of stolen securities and bonds and with persons who wish to purchase this contraband; it is apparent from their prior conduct that they customarily use the aforesaid premises and public telephone for such purposes. There is probable cause to believe that electronic interception of such telephone and oral conversations would yield material evidence of the crimes which are the subject of this investigation, to wit, Grand Larceny in the Second Degree, Possession of Stolen Property in the First Degree, and Conspiracy to commit said crimes, pertaining to the disposition and acquisition of stolen securities and bonds. In addition, the said conversations will provide essential leads to the present possessors of such stolen and contraband property. The stolen and contraband property itself constitutes essential evidence and its recovery may reasonably be expected to lead to the apprehension of those guilty of possession

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of stolen property and perhaps to the thieves themselves.

10. In view of the fact that the criminal activity on the part of Martino, Ralph, Paul Labriola and other unknown parties taken place at these premises and over the telephone and being mindful of the fact that they are being cautious and instrument is located, (see paragraphs 20 and 21 July 3 affidavit) normal surveillance and investigative procedures would appear unlikely to succeed to produce the needed evidence without the overhearing and recording of their conversations by use of the electronic eavesdropping equipment sought herein.

11. The particular description of the type of communications sought to be overheard are those conversations of Martino, Ralph and Paul Labriola, their co-conspirators, agents and associates and there is probable cause to believe that evidence of said crimes will be obtained through the use of eavesdropping equipment.

12. From the foregoing, there is probable cause to believe that Martino, Ralph and Paul Labriola use telephone instrument bearing number 377-9840 in connection with the commission of the aforesaid crimes.

13. I am in possession of no information which would indicate that any of the conversations to be intercepted may be expected to come within any privilege under any applicable rule of law. No conversation which appears privileged will be intercepted. No interception of oral conversations will be had except before 7:30 p. m. on any day.

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14. The conversations to be intercepted will be recorded under my supervision on tapes which will be safeguarded and kept at all times in the custody in the Bureau of Investigation of the New York County District Attorney's Office, will be protected from editing or other alterations and will be used solely and appropriately in the course of the lawful investigation and prosecution of crimes as prescribed in Section 700.65 of the Criminal Procedure Law.

15. In view of the continuing nature of the criminal activity described herein it is further requested that should this order be granted, its authorization for interception not automatically terminate when the type of conversations described in paragraphs 2a, 2b, 2c and 3 supra have been first obtained. It is my opinion that evidence sufficient to properly prosecute the appropriate persons committing the crimes referred to in paragraph 8 and 9, supra can be obtained only by the interception of said conversations. In no event, however, should said order authorize interception for more than thirty (30) days after its effective date.

No previous application for the same or similar relief as sought herein has been made, except as indicated in paragraph 1.

CHARLES E. CLAYMAN

Sworn to before me this

27 day of July, 1972

S/N BROWN

RECEIVED
UNITED STATES

JUL 1 10 02 AM '75

EASTERN DISTRICT
OF NEW YORK

P. Caramore